

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:08cv550**

ZEP, INC.,)	
)	
Plaintiff,)	
)	
Vs.)	ORDER
)	
MIDWEST MOTOR SUPPLY CO.)	
d/b/a KIMBALL MIDWEST; STEVEN)	
LAVE; SAMUEL TRANTHAM; and)	
JOHN THOMAS BELK,)	
)	
Defendants.)	
)	

THIS MATTER is before the court on defendants Midwest Motor Supply Co.'s and John Thomas Belk's Motion for Change of Venue (#28). For cause, such defendants have shown the court that the Southern District of Ohio transferred two distinct cases to this district: (1) Zep, Inc. v. Midwest Motor Supply Co. d/b/a Kimball Midwest and John Thomas Belk, for filing in the Charlotte Division; and Zep, Inc. v. Midwest Motor Supply Co. d/b/a Kimball Midwest, Steven Lave, and Samuel Trantham, for filing in the Asheville Division. Such defendants have further shown this court that upon receipt of such transferred cases in this district, such cases were mistakenly rejoined and filed as one in the Asheville Division. In compliance with

this court's Order of January 5, 2009, counsel have conferred and agreed that the severance agreed to and effectuated in the Southern District of Ohio should be honored and that the case of Zep, Inc. v. Midwest Motor Supply Co. d/b/a Kimball Midwest and John Thomas Belk should be re-severed, assigned a separate docket number, and transferred to the Charlotte Division wherein Mr. Belk resides. The parties further agree that Zep, Inc. v. Midwest Motor Supply Co. d/b/a Kimball Midwest, Steven Lave, and Samuel Trantham should remain in the Asheville Division. In allowing such re-severance and transfer, the court honors the Order of the Southern District of Ohio, but in so doing the undersigned in no way obligates or limits the inherent authority of the judges of this district to re-join or transfer either of these cases in their sound discretion.

ORDER

IT IS, THEREFORE, ORDERED that defendants Midwest Motor Supply Co.'s and John Thomas Belk's Motion for Change of Venue (#28) is **GRANTED**, and

- (1) the case of Zep, Inc. v. Midwest Motor Supply Co. d/b/a Kimball Midwest and John Thomas Belk is **RE-SEVERED** and transferred to the Charlotte Division of the Western District of North Carolina with a separate docket number;

- (2) the case of Zep, Inc. v. Midwest Motor Supply Co. d/b/a Kimball Midwest, Steven Lave, and Samuel Trantham is **RETAINED** in the Asheville Division of this court and shall proceed under docket number 1:08cv550; and
- (3) respective defendants in both cases shall have seven (7) additional days from receipt of this Order to file their Answers or other responsive pleadings.

Signed: January 7, 2009

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

